

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEROME HARDENE',)
)
 Plaintiff,)
)
 v.) No. 4:22-CV-01229-AGF
)
 ST. LOUIS PUBLIC LIBRARY, et al.,)
)
 Defendants.)
)

MEMORANDUM AND ORDER

This matter is before the Court on the pro se Plaintiff's requests (ECF No. 69) for a subpoena for a deposition directed to Vanessa Keys and for the Court to make a conference room available to him at the Thomas Eagleton Courthouse, 111 S. 10th St., St. Louis, MO 63102, for such deposition. As the Court has previously held, Local Rule 2.06 provides that self-represented litigants proceeding in forma pauperis, such as Plaintiff, must file "a written request for the issuance of any witness subpoenas, setting forth the name and address of each witness for whom a subpoena is sought, along with a brief summary of the substance of the witness' anticipated testimony." E.D.Mo. L.R. 2.05(C); *see also* ECF No. 64. Plaintiff has not complied with this Local Rule, as he has not provided the Court with a summary of the substance of Keys's anticipated testimony. Therefore, the Court will direct Plaintiff to supplement his request with this information before the subpoenas will be issued.

See Williams v. Carter, 10 F.3d 563, 566 (8th Cir. 1993) (holding that a district court has discretion as to whether to grant or deny subpoenas for indigent parties); *Stockdale v.*

Stockdale, 2009 WL 4030758, at *1 (E.D. Mo. Nov. 18, 2009) (noting that such discretion “should be exercised to protect the resources of the Court and the Marshal Service, and to prevent harassment and undue expense of other parties and non-parties”).

Further, the Court has already extended the discovery deadline (to August 8, 2024) and the deadline for filing motions for summary judgment (to August 14, 2024), and has ordered that no further requests to extend the schedule would be granted absent extreme good cause shown. ECF No. 57. Therefore, the Court will also direct Plaintiff to demonstrate good cause for his delay in submitting a properly supported request for a subpoena here.

Finally, although Plaintiff has been granted *in forma pauperis* status under 28 U.S.C. § 1915, nothing in that statute authorizes or permits the Court to waive the expense requirements of Federal Rule of Civil Procedure 45. *See Reece v. Lepper*, No. 4:22-CV-815-SRW, 2023 WL 1778169, at *1 (E.D. Mo. Feb. 6, 2023) (citing cases). Should Plaintiff be allowed to proceed under Rule 45, he will be required to tender the fees for one day's attendance and the mileage allowed by law to the witnesses. Statutory witness fees are set out in 28 U.S.C. § 1821(b)(c). Plaintiff will also be responsible for providing the proper address for service.¹ *See Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993). The Court will therefore direct Plaintiff to explain how he will comply with these requirements.

Accordingly,

¹ The Court notes that Keys was dismissed as a defendant in this case for lack of timely service because of Plaintiff's multiple failures to obtain correct service information for this individual. *See* ECF No. 30.

IT IS HEREBY ORDERED that Plaintiff's requests for subpoena are **DENIED** **without** prejudice to reconsideration if Plaintiff promptly supplements his request with the following information: (1) a summary of the witness's anticipated testimony and a description of any documents sought, (2) how the specified testimony and documents is relevant to his case, (3) why good cause exists to excuse his delay in submitting a properly supported request for a subpoena here; (4) how Plaintiff will provide the necessary costs of issuing such subpoena; and (5) how Plaintiff has ensured he has proper service information for the witness. ECF No. 69.

IT IS FURTHER ORDERED that, except upon reconsideration as noted above, no further discovery will be permitted in this case, and no further extensions of the case management schedule granted, absent extreme good cause shown.

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 12th day of August, 2024.